HB11-1255

Colorado Legislative Council Staff Fiscal Note

STATE and LOCAL
CONDITIONAL FISCAL IMPACT

Drafting Number:	LLS 11-0423	**Date:**	March 1, 2011
Prime Sponsor(s):	Rep. DelGrosso Sen. Schwartz	**Bill Status:**	House Finance
		Fiscal Analyst:	Marc Carey (303-866-4102)

TITLE: CONCERNING ALTERNATIVE ENERGY PARKS, AND, IN CONNECTION THEREWITH, AUTHORIZING LOCAL GOVERNMENTS TO APPLY TO THE COLORADO ECONOMIC DEVELOPMENT COMMISSION FOR APPROVAL TO CREATE SUCH PARKS, ALLOWING TAX INCREMENT FINANCING AND BONDING TO BE USED TO FINANCE DEVELOPMENT WITHIN SUCH PARKS, AND PROVIDING TAX INCENTIVES TO TAXPAYERS WHO INVEST IN OR OTHERWISE FINANCIALLY SUPPORT SUCH PARKS.

Fiscal Impact Summary	FY 2011-2012	FY 2012-2013
State Revenue General Fund	Cannot be Quantified See State Revenue section.	
State Expenditures General Fund	See State Expenditures section	
FTE Position Change		
Effective Date: August 10, 2011, if the General Assembly adjourns on May 11, 2011, as scheduled, and no referendum petition is filed.		
Appropriation Summary for FY 2011-2012: None required.		
Local Government Impact: See Local Government Impact section.		

Summary of Legislation

This bill authorizes one or more contiguous counties or municipalities, or the Director of the Colorado Office of Economic Development and International Trade (OEDIT), to apply to the Colorado Economic Development Commission (EDC) for approval of an alternative energy park. The bill specifies information to be included in the application and criteria to be met for approval of the application. Applications may also include requests to create alternative energy authorities, and the bill specifies the membership and powers of such authorities.

Tax Increment Financing. The bill authorizes the use tax increment financing (TIF), using either local property tax revenue, municipal sales tax revenue, or both, to finance construction of specified improvements within alternative energy parks. The bill specifies what revenue must be included in the TIF base, and that this revenue may be allocated to TIF financing for up to 25 years.

Bonding Authority. The bill authorizes financing entities to issue tax-exempt bonds to finance the development of renewable energy parks. The bill specifies the types of bonds that may be issued, and the revenue that is eligible to secure the debt. The bill specifies that any such bond does not constitute a state or local government debt.

Reporting Requirements. The bill also specifies annual reporting and auditing requirements for the entity that finances the alternative energy park. The financing entity must also submit an independent audit of its financial status along with the report. In addition, the OEDIT is required to report to the General Assembly on local government tax expenditures used for alternative energy economic development in the prior fiscal year. In addition, the Departments of Revenue (DOR) and Local Affairs (DOLA) must annually report to the General Assembly on the amount of TIF revenue diverted to approved alternative energy parks. Every other year, the OEDIT and these two agencies must also report detailed information on each park approved to receive TIF revenue.

Tax Credits. Beginning in income tax year 2014, the bill creates a series of income tax credits similar to existing tax credits for Colorado enterprise zones. Specifically, the bill creates the following tax credits for alternative energy parks:

- monetary or in-kind contributions credit: 25 percent of cash or in-kind contributions up to $100,000. In-kind contributions may not exceed 50 percent of the total credit claimed;
- investment tax credit: 3 percent of value of equipment used in alternative energy parks for at least 1 year;
- new business facility tax credit: $2,000 per employee and a $200 health insurance credit for the first 2 full years;
- research and experimental facilities expenditure credit: 3 percent of increased research and development expenditures; and
- rehabilitation of vacant building credit: 25 percent of rehabilitation expenditures up to $50,000.

Sales and Use Tax Exemption. Beginning July 1, 2012, the bill exempts purchases of qualifying machinery, machine tools, and parts used solely in an alternative energy park from the state sales and use tax.

Property Tax Credit - Local Sales Tax Refund. Finally, the bill allows a local government to provide a property tax credit or refund of local government sales taxes to a taxpayer that financially supports or invests in an alternative energy park in accordance with specified criteria.

Background

Tax Increment Financing. Tax increment financing (TIF) allows for the cost of public improvements in a region to be repaid from increased taxes generated by new or expanded business activity in the region. Under TIF, any taxes collected above a base amount are dedicated to repay the bonds that were issued to raise money to complete the improvement in the first place. In

Colorado, TIF is used primarily by municipalities for urban renewal projects. This bill provides for the use of TIF on local property tax and municipal sales tax for renewable energy parks. The bill defines the property tax base as taxes resulting from levies from within the project area that were certified prior to approval of the project. Likewise, the municipal sales tax base is defined as sales taxes collected within the project area in the 12-month period immediately preceding the month in which the project is authorized. Property taxes and sales taxes collected above the base would be used for bond repayment.

Enterprise Zone Program. Colorado's existing enterprise zone program provides tax incentives to encourage businesses to locate and expand in economically distressed areas of the state. Currently, there are 16 enterprise zones and 2 sub-zones in Colorado, including all or most of 43 counties and portions of 10 others. This accounts for roughly 69 percent of the geographic area of the state, but only about 15 percent of its population. Businesses located in enterprise zones may qualify for up to nine enterprise zone tax credits that encourage job creation and investment in the enterprise zone. This bill takes similar tax credits and incentives and makes them available to businesses located in approved alternative energy parks.

State Revenue

The net revenue effect of this bill is to divert revenue from the state General Fund to businesses that locate in approved alternative energy parks through a system of income tax credits and sales and use tax exemptions. The actual impact will depend on several factors that are currently unknown. The most important factor is the number of alternative energy parks that are created and the number of businesses that are induced to locate in these parks as a result of the TIF financing and tax incentives in this bill.

The bill establishes a series of income tax credits, similar to existing enterprise zone tax credits, that would be available for businesses that locate in approved parks. It is difficult to know in advance how much of this development would have occurred anyway, and how much would be directly attributable to HB 11-1255. The following three scenarios illustrate the impact of this bill on state revenue, depending on: (1) whether park development would have occurred anyway or not, and (2) whether the development occurs within an existing enterprise zone or not.

Scenario 1: Park development is solely attributable to HB 11-1255. Under this scenario, development of a renewable energy park is induced *solely by passage of this bill*, and *occurs in an area not currently designated as an enterprise zone*. In this case, development will result in some new sales and income tax revenue for the state. The amount of new revenue will depend on the following:

- the number and nature of businesses induced to locate in this park and the amount of economic activity and jobs generated by the park;
- the amount of new corporate income tax revenue resulting from park businesses;
- the amount of new sales tax revenue resulting from induced economic activity; and
- the amount of new income tax revenue resulting from the induced new jobs in the park.

The amount of new corporate income tax revenue will be offset to some degree by the amount of credits claimed by businesses located in the approved park. Likewise, the amount of new sales tax revenue generated within the park will be offset somewhat by the sales tax exemption for equipment and machinery. There will also be secondary impacts, such as additional individual income tax revenue from park employees and the additional sales tax revenue from park businesses and park employees spending money in the local economy.

Scenario 2: Park development would have occurred anyway without HB 11-1255. Under this scenario, development of a park *would have occurred anyway* in an area *not currently designated as an enterprise zone*. This scenario implies that the tax incentives included in this bill will reduce state revenue by the amount of corporate income tax credits claimed and the sales taxes revenue foregone on machinery and equipment. In this scenario, the additional corporate income tax revenue and sales taxes revenue resulting directly from the park would have happened anyway, and so do not offset the tax revenue loss resulting from the credits and exemptions contained in the bill. Similarly, the secondary impacts of additional individual income tax revenue from jobs created through park development and additional sales tax revenue from new sales in the local economy also would have been collected anyway, and thus are not an offset.

Scenario 3: Park occurs in an existing enterprise zone, whether or not it would have occurred anyway. The third scenario is the development of an alternative energy park within an existing enterprise zone. Currently, two developments have already been proposed that would qualify as alternative energy parks under this bill and are located in existing enterprise zones: the Greeley Clean Energy Park outside of Greeley and the Colorado Clean Energy Park outside of Pueblo. In such cases, this bill provides no additional incentives in the form of state tax credits over what currently exists. However, the bills additional incentive of a sales and use tax exemption for machinery and equipment within the park would result in an additional loss of state revenue.

State Expenditures

The bill will impact state expenditures, but the actual impact will depend on several factors that are currently unknown. Until an application for a renewable energy park is actually submitted to the Economic Development Commission, no new state appropriations are necessary. If an application is submitted, it is assumed that any necessary appropriations will be provided through the annual budget process.

Economic Development Commission (EDC). The EDC and the OEDIT will incur increased costs to establish guidelines for project review, analyze alternative energy park applications, hold hearings on applications, notify other agencies when applications are approved, and make annual reports. These costs are conditional on receipt of applications, and this fiscal note assumes the bill does not require action by the EDC or OEDIT until the law has been effective for sufficient time to allow development of alternative energy park applications. While it is unknown how many applications will be received in the future, the number of applications is anticipated to be low enough that such review can be handled within existing appropriations.

Department of Revenue (DOR). Costs incurred by the DOR include computer programming to identify businesses located in alternative energy parks, the verification of income tax credits claimed, and coordination with OEDIT and DOLA to produce the required annual reports for approved alternative energy parks. This fiscal note assumes that the OEDIT will manage the contact information for each approved park, and that the number of approved parks, and businesses located within those parks will be small enough that these reporting requirements can be done within existing appropriations. If additional costs are incurred, these will be addressed through the annual budget process.

Department of Local Affairs (DOLA). The bill requires the DOLA to coordinate with OEDIT and DOR to annually report on the amount of TIF revenue diverted to financing entities for approved parks. Every other year, these agencies are required to report specific detailed information on each park. This fiscal note assumes that the OEDIT will manage the contact information for each approved park, and that the number of approved parks will be small enough that these reporting requirements can be done within existing appropriations.

School Finance. To the extent that an approved renewable energy park results in a net increase in local property values and property tax collections for school districts that would not have otherwise occurred, it will also reduce the need for state funding under the school finance act. Conversely, any increase in the use of property tax increment financing will increase the need for state aid. State aid for schools is primarily from the General Fund and the State Education Fund.

Local Government Impact

Local governments with approved alternative energy parks funded with TIF revenue may see an aggregate increase in property tax collections and/or municipal sales tax collections related to these parks. However, just as with the state tax credit incentives, the impact depends in part on whether the development was induced or would have occurred anyway. If the development is completely induced, then local property and sales tax revenue increases may be credited to the bill. If the development would have happened anyway, then local tax revenue is decreased by the amount of the TIF. In addition, a portion of these revenue streams will have been diverted to secure the bonds used to finance park development. It is thus unknown whether, on balance, the development of alternative energy parks will increase or decrease local tax revenues.

There may also be additional requirements for local government services or infrastructure resulting from a park development. While the bill allows local governments to enter into agreements with financing entities to cover the costs of such services or infrastructure, it is not a certainty that such agreements would occur. These impacts are conditional on local governments choosing to apply for an alternative energy park with the EDC.

It should be noted that new TIF-funded development may not overlap an existing TIF region unless the different recipients of TIF revenue agree to share it. This limits the area available for alternative energy park development.

Departments Contacted

Governor's Office Local Affairs Revenue